

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-013485

09/23/2011

HONORABLE HUGH HEGYI

CLERK OF THE COURT
K. Ballard
Deputy

CANYON PHYSICIANS II INC

JOSEPH A SCHENK

v.

LESLIE EDISON, et al.

ROBERT L EARLE

TRIAL MANAGEMENT CONFERENCE CONTINUED

Courtroom: ECB-611

1:43 p.m. This is the time set for Trial Management Conference. Plaintiff/Counter-defendant Canyon Physicians II, Inc. and Counterdefendants Behcon, Inc., Dennis Pickering, Robert L. Pickering, Susan Pickering, and Timothy J. Pickering are represented by Counsel Joseph A. Schenk. Defendant/Counterclaimant Leslie Edison is not present or represented.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

The Court inquires of counsel's contact with Defendant's counsel regarding today's hearing. In that regard, counsel advises the Court of the history of communications between counsel over the last few months as has been set forth in Plaintiff's September 20, 2011 Status Report.

The Court addresses Plaintiff's counsel regarding the comments made on page 2 of Defendant's September 20, 2011 Submission of Defendant's Portion of Joint Pre-Trial Statement.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-013485

09/23/2011

IT IS ORDERED directing Defendant's counsel to prepare a proper Joint Pretrial Statement encompassing both parties' submissions, and file same with the Court no later than **noon on Monday, September 26, 2011**.

Plaintiff's counsel advises the Court that his office has in fact drafted a Joint Pretrial Statement containing both parties' statements. A copy of the same is provided to the Court for review. By way of clarification, Plaintiff's counsel advises the Court that he only included the relevant portions of Defendant's submission.

The Court finds the draft Joint Pretrial Statement by Plaintiff is sufficient to proceed with in this case.

Plaintiff's counsel addresses the Court regarding a monetary sanction in the amount of \$350.00 previously entered in this matter against Mr. Earle for not appearing at a prior summary judgment hearing. Counsel indicates that to date, Mr. Earle has not paid that sanction, but counsel has not pursued that issue since he has been under the belief that a motion for reconsideration had been filed in that regard.

Plaintiff's counsel requests that that a further sanction be entered against Mr. Earle for his failure to appear today and for counsel's time and efforts in preparing for today's hearing.

IT IS ORDERED granting Plaintiff's request for a monetary sanction without prejudice to Mr. Earle moving to set the sanction aside and explaining his absence for today's and his failure for not attempting to contact the Court's staff regarding his failure to appear.

With regard to an outstanding motion for reconsideration, the Court advises counsel that the Court's file does not contain such a motion. In that regard, Plaintiff's counsel addresses the Court regarding inconsistencies by Mr. Earle with regard to the filing/ serving of pleadings in this matter.

Plaintiff's August 29, 2011 Motion in Limine is addressed.

No response having been received,

IT IS ORDERED granting Plaintiff's August 29, 2011 Motion in Limine pursuant to Rule 7.1(b), ARCP.

IT IS FURTHER ORDERED that Mr. Earle will appear at Mr. Schenk's office from **1:30 p.m. to 5 p.m. on Friday, September 30, 2011** to attempt to resolve the differences raised in the joint pretrial statement, including exhibit issues.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-013485

09/23/2011

Plaintiff's counsel advises the Court that he will electronically send Mr. Earle a copy of the complete draft of the Joint Pretrial Statement as provided to the Court today. The Court requests that Plaintiff additionally eFile that Pretrial Statement as well.

IT IS FURTHER ORDERED setting this matter for a continued Trial Management Conference on **October 11, 2011 at 1:30 p.m.** (time allotted: **3 hours**) in this Division. Trial counsel shall appear **in person** and will not be permitted to appear telephonically.

**THE HONORABLE HUGH E. HEGYI
MARICOPA COUNTY SUPERIOR COURT
EAST COURT BUILDING
101 W. JEFFERSON
6TH FLOOR, COURTROOM 611
PHOENIX, AZ 85003
602-506-3963 TEL
602-372-8636 FAX**

Plaintiff's counsel advises the Court that should Defendant's counsel fail to appear for the meeting on September 30, 2011 and/or the October 11, 2011 continued Trial Management Conference, he will be seeking sanctions other than monetary sanctions, and may seek the dismissal of the counterclaims and entry of default with regard to the Plaintiff's claims. In this regard, counsel requests that the Court alternatively schedule an evidentiary hearing to determine sanctions on October 11, 2011 at 1:30 p.m.

The Court finds the latter request to be premature at this time; however, Plaintiff's counsel is advised that he may file a motion for sanctions, seeking expedited consideration, if Mr. Earle fails to appear as directed on September 30, 2011.

With regard to Plaintiff's request for monetary sanctions regarding Mr. Earle's failure to appear for today's hearing, counsel seeks clarification regarding the scope of the requested sanction as counsel will be filing a formal motion requesting the same. Counsel is directed to file the motion seeking whatever sanctions he deems appropriate and the Court will consider the same.

NOTE: All court proceedings are recorded by audio and video method and not by a court reporter. Any party may request the presence of a court reporter by contacting this division (602-506-3963) three (3) court business days before the scheduled hearing.

2:13 p.m. Matter concludes.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2009-013485

09/23/2011

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.